

Message Text

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SUBJECT : FAA SECTION 32 - POLITICAL PRISONERS

REF: STATE 068545

1. THAI LAW GUARANTEES TO THAI CITIZENS MOST OF THE JUDICIAL PROTECTION OFFERED UNDER UNITED STATES LAW. THE CRIMINAL PROCEDURE CODE OF THAILAND SPECIFICALLY DELINEATES GROUNDS FOR A WARRANT FOR ARREST AND SECTION 69 OF THE CODE REQUIRES A SEARCH WARRANT TO SEIZE PRIVATE PROPERTY. SPECIFICALLY, SECTION 78 OF THE THAI CRIMINAL PROCEDURE CODE STATES THAT NO PERSON MAY BE ARRESTED BY ANY ADMINISTRATIVE OR POLITICAL OFFICIAL WITHOUT AN ARREST WARRANT, EXCEPT IN THE FOLLOWING CASES:

A. WHEN SUCH PERSON HAS COMMITTED A FLAGRANT OFFENSE.

B. WHEN SUCH PERSON IF FOUND ATTEMPTING TO COMMIT AN OFFENSE, OR CIRCUMSTANCES INDICATE THAT HE HAS IN HIS POSSESSION IMPLEMENTS, ARMS OR OTHER ARTICLES LIKELY TO BE USED IN COMMITTING AN OFFENSE.

C. WHEN THERE ARE REASONABLE GROUNDS TO SUSPECT THAT THE PERSON WHO HAS COMMITTED AN OFFENSE IS ABOUT TO ABSCOND, WHERE ANOTHER PERSON HAS REQUESTED AN ARREST OF SUCH PERSON CHARGING HIM WITH HAVING COMMITTED A CRIMINAL OFFENSE. WHEN A SUPERIOR ADMINISTRATIVE OR
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POLICE OFFICIAL MAKES AN ARREST NO WARRANT IS NECESSARY,

BUT SUCH ARREST CAN ONLY BE MADE IN THE CASE WHEN A WARRANT MAY BE ISSUED OR WHEN SUCH AN OFFICIAL MAY ARREST UNDER THE CODE. IN ADDITION, SECTION 84 OF THE CODE REQUIRES CHARGES TO BE READ TO THE ARRESTED PERSON IMMEDIATELY. SECTION 86 OF THE CODE INDICATES NO MEANS OF RESTRAINT SHOULD BE APPLIED TO AN ARRESTED PERSON MORE THAN NECESSARY TO PREVENT HIS ESCAPE.

2. UNDER THAI LAW OFFENSES ARE STATUTORY AND WITH THE EXCEPTION OF OFFENSES AGAINST THE INTERNAL SECURITY OF THE STATE AND OFFENSES AGAINST THE EXTERNAL SECURITY OF THE STATE, DO NOT INCORPORATE ANY PLATFORM FOR DETAINING OR CHARGING ANY POLITICAL PRISONER. THAI LAW RECOGNIZES HABEAS CORPUS, WITH THE EXCEPTION OF OFFENSES AGAINST THE INTERNAL SECURITY OR EXTERNAL SECURITY OF THE STATE. WHEN AN INDIVIDUAL IS TRIED BY A MILITARY COURT FOR OFFENSES AGAINST THE INTERNAL OR EXTERNAL SECURITY OF THE STATE, A HABEAS CORPUS HEARING IS NOT APPLICABLE. THE OFFENSE AGAINST THE INTERNAL SECURITY OF THE COUNTRY, SECTION 113, GENERALLY SPEAKS IN TERMS OF INSURRECTION AND ATTEMPTING TO OVERTHROW, OR CHANGE BY USURPATION, THE EXECUTIVE OR JUDICIAL POWERS OF THE STATE OR SEIZE ADMINISTRATIVE POWERS OF ANY PART OF THE KINGDOM.

3. CHAPTER 2 OF THE LAW DEALS WITH OFFENSES AGAINST THE EXTERNAL SECURITY OF THE STATE AND SPEAKS IN TERMS OF INTENT TO SUBJECT THE SOVEREIGNTY OF THAILAND TO ANY FOREIGN STATE, OR DETERIORATE THE INDEPENDENCE OF THAILAND. IN THE PAST THESE TWO LAWS HAVE BEEN USED TO IMPRISON INDIVIDUALS SUSPECTED OF BEING AFFILIATED WITH THE COMMUNIST PARTY IN THAILAND. AN UNKNOWN NUMBER OF THAIS ARE CONFINED IN THAI PRISONS UNDER THIS SECTION, ALTHOUGH IT HAS BEEN USED PRIMARILY TO INCARCERATE CAPTURED LOCAL COMMUNIST TERRORISTS. ABOUT 10 YEARS AGO, A LEADING THAI LEFTIST, THEP CHOTINUCHIT, AND ABOUT 75 OF HIS MORE ACTIVE FOLLOWERS IN SISAKET AND OTHER NORTH-EASTERN PROVINCES, WERE IMPRISONED WITHOUT BENEFIT OF TRIAL AND WERE KEPT THERE FOR ABOUT SEVEN YEARS. A WRIT OF HABEAS CORPUS WAS DENIED SHORTLY AFTER THEY WERE SENT TO PRISON.

4. THE THAI CIVIL COURTS HAVE STEADFASTLY REFUSED TO APPLY HABEAS CORPUS PROCEEDING TO MARTIAL LAW CASES DEALING WITH CONFIDENTIAL

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ARRESTS OF COMMUNISTS CHARGED WITH OFFENSES UNDER THE INTERNAL AND EXTERNAL SECURITY LAW. ALTHOUGH MANY PERSONS CHARGED AND PLACED IN PRISON HAVE BEEN APPREHENDED TERRORISTS, A SMALL NUMBER OF PERSONS, PROBABLY FEWER THAN 50, SIMPLY HAD COMMUNIST PARTY AFFILIATIONS IN THAILAND. TO OUR KNOWLEDGE THIS LAW HAS NOT BEEN USED TO SUPPRESS POLITICAL DISSIDENTS OR THE PRESS, BUT HAS BEEN USED ALMOST EXCLUSIVELY TO SUPPRESS COMMUNIST ACTIVITY IN THAILAND. VIETNAMESE

REFUGEES, WHOM THE THAI HOLD IN HIGH SUSPICION BECAUSE
OF THEIR LINKS WITH NORTH VIETNAM, OCCASIONALLY FIND
THEMSELVES JAILED UNDER CHARGES OF BEING COMMUNISTS.

5. ON 9 MARCH 1972, UTAI PIMCHAICHON, ANAN PAKDIPRAPAI,
AND BOONKOED HIRANKAM, EX-MEMBERS OF PARLIAMENT TRIED TO
PROSECUTE CHAIRMAN OF THE NATIONAL EXECUTIVE COUNCIL (NEC)
THANOM KITTIKACHORN AND 16 OTHER NEC MEMBERS IN THE CRIMINAL
COURT FOR TREASON FOR HAVING ABROGATED THE 1968 PERMANENT
CONSTITUTION. THE NEC PROMPTLY ARRESTED THE THREE EX-MP'S
AND PRESSURED THE COUR
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